

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ROCKIES EXPRESS PIPELINE, LLC,)	
)	
Plaintiff,)	
)	
vs.)	1:08-cv-751-RLY-DML
)	
123.62 ACRES, et al.,)	
)	
Defendants.)	

CONDEMNATION ORDER
(Hopkins Tract/IN-MN-025.000)

This matter is before the court for consideration of Rockies Express Pipeline, LLC's ("REX") *Sixth Amendment to the Verified Complaint for Condemnation of Pipeline Right-of-Way Servitudes* as to property owned by Defendants Arvin M. and Mary L. Hopkins ("Owners") and more particularly described as follows:

130.03 Acres, more or less, described as part of the SW 1/4 and part of the SE. 1/4 of Section 1 – Township 1 3N – Range 2E, 2nd P.M., Morgan County, Indiana as described in that certain Deed record March 11, 2004, in the records of the Morgan County, Indiana at Instrument Number 200403516.

("Hopkins' Property").

The court previously ordered, on October 1, 2008, that REX had the right to

condemn the Right-of-Way Servitudes (as defined below) across the Hopkins' Property. *See Entry Granting Plaintiff's Motion for an Order Confirming Condemnation Authority* (Docket # 527). On July 27, 2010, this court ordered a compensation hearing before a Commission appointed by this court to determine the just compensation to be paid by REX as a result of the condemnation of the Right-of-Way Servitudes across the Hopkins' Property. *See Entry Setting Hearing to Determine Just Compensation (Hopkins Parcels Only)* (Docket # 782). On August 26 and 27, 2010, the appointed Commission held a compensation hearing to determine the amount of just compensation to be paid by REX as a result of the condemnation of the Right-of-Way Servitudes across the Hopkins' Property. Then, on October 25, 2010, the Commission issued the *Commissioners' Findings of Fact and Conclusions of Law and Recommendation (Hopkins Tract / IN-MN-025.000)* ["Recommendation"] (Docket # 831), determining the amount of just compensation that should be paid by REX as a result of the condemnation of the Right-of-Way Servitudes across the Hopkins' Property. The court hereby adopts the Recommendation, finds that the just compensation to be paid by REX as a result of the condemnation of the Right-of-Way Servitudes across the Hopkins' Property is the amount set forth in the Recommendation, and orders the following:

IT IS ORDERED that REX, a Delaware limited liability company whose address is 500 Dallas, Suite 1000, Houston, Texas 77002-8022, and its successors and assigns, are hereby granted permanent and temporary easements at the locations and dimensions, as

shown more particularly on the diagram attached hereto in **Exhibit A**, for the construction and operation of one 42” diameter natural gas pipeline and related facilities (collectively, the “Pipeleline Facilities”) across the Hopkins’ Property as follows:

- (1) a fifty (50) foot wide permanent easement, twenty-five (25) feet on each side of the center line of the pipeline servitude;
- (2) a seventy-five (75) foot wide temporary easement, which will be used by REX for the purposes of temporary working space during the initial construction and installation of the pipeline and during the Right-of-Way restoration, but which temporary Right-of-Way shall terminate upon completion of the initial construction and restoration of the area;
- (3) an additional undefined temporary easement, which will be used by REX solely for the purpose of dewatering the fifty (50) foot wide permanent Right-of-Way Servitude which will be used by REX for the purposes of temporary working space during the initial construction and installation of the pipeline and during the Right-of-Way restoration, but which temporary Right-of-Way shall terminate upon completion of the initial construction and restoration of the area;
- (4) all rights of ingress, egress, and reasonable access necessary to protect, repair, upkeep and maintain REX EAST and the Right-of-Way and all related above and below ground appurtances;

(collectively, the “Right-of-Way Servitudes”).

Said location and dimensions of the above-referenced permanent and temporary easements are set forth on **Exhibit A**, attached hereto and made a part hereof, as approved

by the Federal Energy Regulatory Commission.

IT IS FURTHER ORDERED that the Owners, including their heirs, successors, and assigns, individually and jointly, are precluded from constructing any buildings or structures, from spreading overburden (filling/topsoil) from surface mining or mineral extraction activities, from impounding any water, or from planting any trees or shrubs upon the permanent easement area, or from any other activities that would interfere with or endanger any of the Pipeline Facilities or use thereof by REX.

IT IS FURTHER ORDERED that the Owners, including their heirs, successors, and assigns, individually and jointly, are precluded from conducting any surface mining or mineral extraction activities or removing soil or minerals, including without limitation sand and gravel, on or beneath the surface of the permanent easement and (a) within 90 feet east of the eastern boundary of the permanent easement (total area of approximately 4.32 acres), and (b) within 90 feet west of the western boundary of the permanent easement (total area of approximately 4.13 acres).

IT IS FURTHER ORDERED that REX shall construct, within 180 days of the entry of this Order, a crossing on the surface of the permanent easement to the specifications set forth on the *Heavy Equipment Crossing Detail*, attached hereto as **Exhibit B** and made a part hereof, unless unfavorable weather prohibits such construction, in which case, REX will proceed to construct the crossing at the earliest, reasonable opportunity.

IT IS FURTHER ORDERED that no repetitive, operational vehicle movement is allowed over the permanent easement area, except on the heavy equipment crossing and in accordance with the operational restrictions set forth on the *Heavy Equipment Crossing Detail* attached hereto as **Exhibit B.**

IT IS FURTHER ORDERED that all Right-of-Way Servitudes across the Hopkins' Property include without limitation the right to conduct any activities authorized by the Federal Energy Regulatory Commission, the United States Department of Transportation, and any other Federal or State agency with jurisdiction over the Pipeline Facilities.

IT IS FURTHER ORDERED that this Condemnation Order is binding upon:

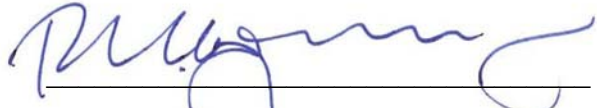
- (a) Defendants, Arvin M. and Mary L. Hopkins, as well as any of their heirs, successors or assigns, individually, or jointly;
- (b) Defendant, Federal Deposit Insurance Corporation, as well as any of its successors or assigns, which claims an interest in the Hopkins' Property; and
- (c) Defendant, Eric Richards, d/b/a Indy Family Farms, who conducted farming activities on the Hopkins' Property.

IT IS FURTHER ORDERED that REX shall deposit with the court, within 30 days of the entry of this Order, funds in the amount specified in the Recommendation with such being made and handled pursuant to and in accordance with Fed. R. Civ. Proc. 71.1(j).

IT IS FURTHER ORDERED that this Condemnation Order shall be recorded in

the Office of the Recorder of Morgan County, Indiana, where the Hopkins' Property is located, including **Exhibit A** and **Exhibit B**.

SO ORDERED this 11th day of May 2011.



RICHARD L. YOUNG, CHIEF JUDGE
United States District Court
Southern District of Indiana

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SURVEY
FOR
IN-MN-025.000

BEARINGS ARE BASED ON UNIVERSAL TRANSVERSE
MERCATOR (UTM) ZONE 16 NORTH.
MEASUREMENTS SHOWN ARE GROUND DISTANCES
WITH A COMBINED SCALE FACTOR OF
GRID TO GROUND: 1.000394010
GROUND TO GRID: 0.999606145

TRICO Surveying & Mapping, Inc.

441 West County Pike, Bloomington, IN 47404
Phone: 812-330-7050 Fax: 812-330-7035

Timothy E. Jones R.L.S.

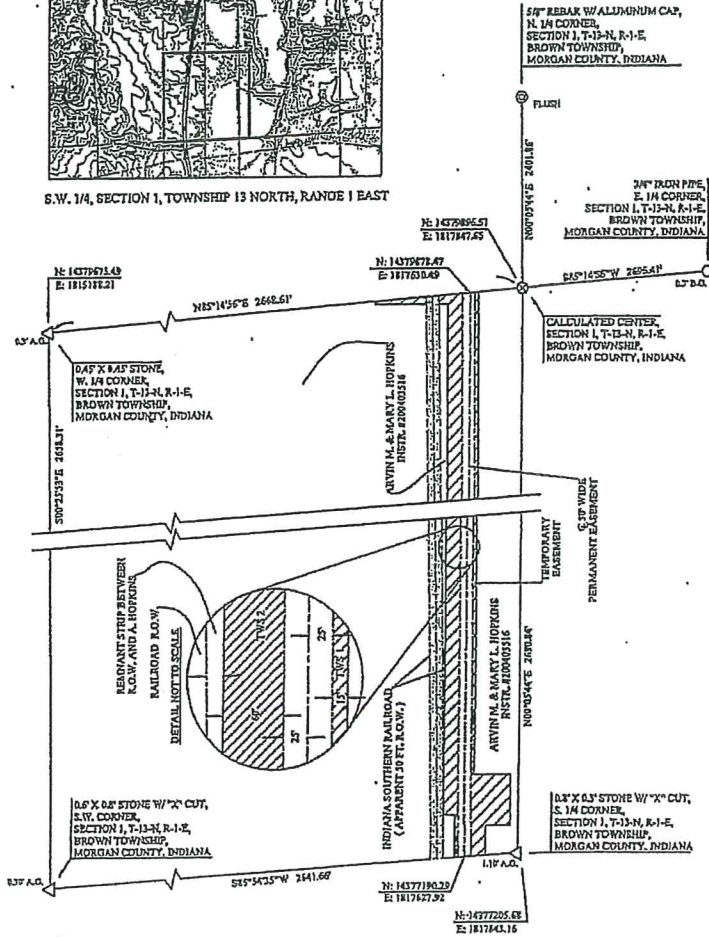
A PLAT OF SURVEY IN THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 13 NORTH,
RANGE 1 EAST, BROWN TOWNSHIP, MORGAN COUNTY, INDIANA
TRACT NUMBERS: IN-MN-025.000

(JOB# TSM200811)
PLAT 2 OF 2
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VICINITY MAP (NOT TO SCALE)



S.W. 1/4, SECTION 1, TOWNSHIP 13 NORTH, RANGE 1 EAST



SCALE: 1" = 400'



BEARINGS ARE BASED ON UNIVERSAL TRANSVERSE
MERCATOR (UTM) ZONE 16 NORTH,
(COORDINATES SHOWN ARE GROUND COORDINATES)
MEASUREMENTS SHOWN ARE GROUND DISTANCES
WITH A COMBINED SCALE FACTOR OF
GRID TO GROUND: 1.00334010
GROUND TO GRID: 0.99966145

LEGEND

	PERMANENT EASEMENT (50' WIDE) 3.025 ACRES ± (134410.04 S.F.)
	TEMPORARY WORKSPACE (TWS 1) 1.710 ACRES ± (74496.58 S.F.)
	TEMPORARY WORKSPACE (TWS 2) 3.670 ACRES ± (160755.56 S.F.)

CERTIFICATION DATE: AUGUST 4, 2008

SURVEYOR'S SIGNATURE:

TIMOTHY E. JONES R.L.S.
INDIANA REGISTRY #LS20300005





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Certificate of Survey

I, Timothy E. Jones, hereby certify that I am a Registered Land Surveyor, licensed in accordance with the laws of the State of Indiana, that the attached Plat represents a survey completed under my direct supervision on July 22, 2008, and that all monuments actually exist, and that their types and locations are, to the best of my knowledge, accurately shown. No corner monuments were set for the described easements or subject tracts unless shown on the attached plat. The uncertainty in the location of any point on this survey due to random errors in measurement (Relative Positional Accuracy) of the monuments established, this survey, is within the specifications for a "Rural Class" Survey: 0.26 feet (79 millimeters) plus 200 parts per million, as defined by I.A.C. 865.

The purpose of this survey was to describe a 50 foot wide permanent easement and a temporary easement for Rockies Express Pipeline, LLC. on and across a 107.82 acre tract of land as described in Instrument Number 200403516 as found in the Morgan County Records Office and all having been conveyed to Arvin M. & Mary L. Hopkins.

Subject Tract of Arvin M. & Mary L. Hopkins as Rockies Express East Tracts IN-MN-025.000 as described in Instrument Number 200403516 in the Morgan County Records Office

Part of the Southwest Quarter of Section 1, Township 13 North, Range 1 East, described as follows, to-wit: BEGINNING at a stone corner in the center line of the Mooresville and Brooklyn Road 9.91 chains East of the Southwest corner of said Section 1; thence North 3/4 degrees West with the center line of said road 2.86 chains to a stone corner; thence North 6 degrees East with the center line of said road 37.94 chains to a stone corner on the East and West center line of said Section 1; thence East with said center line of said Section 1, 25.89 chains to the center corner of said Section 1; thence South 5.66 chains and running South 45 1/2 degrees West 1.34 chains; thence South 20 3/4 degrees West 3.96 chains; thence South 15 1/2 degrees East 4 chains; thence South 45 degrees East .53 chains; thence South 71 degrees East .59 chains; thence South 28 degrees West 1.14 chains; thence South 38 3/4 degrees West 2.35 chains; thence South 28 degrees East 2.26 chains; thence South 47 1/2 degrees East 1.75 chains to the North and South center line of said Section 1; thence South on said center line 19.77 chains to the South half mile corner of said Section 1; thence West with the said Section line 30.15 chains to the PLACE OF BEGINNING. EXCEPT a strip of land 50 feet in width running through the above described tract, said strip of land having been heretofore deeded to the Indianapolis and Vincennes Railroad Company, said strip containing 3.36 acres, more or less, and leaving the tract hereby conveyed to Grantees 107.82 acres, more or less.

ALSO: A part of the Southeast Quarter of said Section 1, Township and Range aforesaid, bounded and described as follows, to-wit: BEGINNING at the center corner of said Section, and running thence East 2.56 chains to the West bank of White Lick Creek; thence down said Creek with the meanderings of its West bank as follows: South 12 degrees East 1.40 chains; thence South 14 degrees West 3.66 chains to the North bank of the old bed of said Creek; thence with the meanderings of the North bank of said old bed as follows: South 79 degrees West 79 links; thence South 56 1/4 degrees West 1.34 chains to the North and South center of said Section; and thence North 5.66 chains to the PLACE OF BEGINNING, containing 1.23 acres, more or less.

ALSO: A part of the Southeast Quarter of Section 1, Township and Range aforesaid, bounded and described as follows: BEGINNING at the South 1/2 mile corner of said Section, and running thence East with the section line 10.165 chains to the West bank of White Lick Creek;



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thence up said Creek with the meanderings of its West bank as follows: North 2 degrees West 2.13 chains; thence North 15 degrees East 2.52 chains; thence North 17 degrees East, 1 1/2 chains; thence North 10 degrees East, 2.30 chains; thence North 19 1/2 degrees East, 33 links; thence North 10 3/4 degrees East, 2.41 chains; thence North 18 degrees East, 1.895 chains; thence North 20 degrees East, 4.04 chains; thence North 9 West, 2.88 chains; thence North 37 degrees West 1.62 chains; thence North 78 degrees West, 1.94 chains; thence North 82 degrees West 2 chains, to South bank of a bayou; thence with the meanderings of the South bank of the bayou as follows: South 64 1/2 degrees West 1.13 chains; thence South 45 1/4 degrees West, 1.03 chains; thence South 23 degrees West, 1.36 chains; thence North 59 degrees West, 1.47 chains; thence 89 1/2 degrees West, 1.69 chains; thence North 77 degrees West, 2.11 chains; thence North 78 1/2 degrees West, 73 links; thence North 48 degrees West 97 links to the North and South center line of said Section; and thence South 20.23 chains to the PLACE OF BEGINNING, containing 23.93 acres, more or less.

Description for 50 foot wide Permanent Easement for Rockies Express East Tracts IN-MN-025.000

A part of the Southwest Quarter of Section 1 Range 1 East of the Second Principal Meridian in Brown Township, Morgan County, Indiana and more particularly described as follows:

Commencing at a Stone with a cut "X" found, (per Morgan County Surveyors record), marking the West Quarter Corner of said Section 1; thence on the North line of the Southwest Quarter of said Section North 85 degrees 14 minutes 56 seconds East, (Basis of Bearing for this description is based on UTM Zone 16), 2450.70 feet to the intersection of the centerline of a 50 foot wide permanent easement and the POINT OF BEGINNING. Said easement being 25 feet on each side of the following described centerline: Thence South 00 degrees 01 minutes 30 seconds East 1157.18 feet; thence South 00 degrees 15 minutes 55 seconds West 1209.93 feet; thence South 00 degrees 27 minutes 04 seconds East 321.09 feet to the South line of said Southwest Quarter.

Said easement contains 62,794.88 square feet / 1.442 acres more or less.

The side lines of said 50 feet wide easement shall be lengthened or shortened as to terminate at the north and south lines of said lands of Arvin M. & Mary L. Hopkins.

SEE ATTACHED PLAT.

Description for Temporary Easement for Rockies Express East Tracts IN-MN-025.000

A part of the Southwest Quarter of Section 1 Range 1 East of the Second Principal Meridian in Brown Township, Morgan County, Indiana and more particularly described as follows:

Commencing at a Stone with a cut "X" found, (per Morgan County Surveyors record), marking the West Quarter Corner of said Section 1; thence on the North line of the Southwest Quarter of said Section North 85 degrees 14 minutes 56 seconds East (Basis of Bearing for this description based on UTM Zone 16) feet to 2074.42 feet to the POINT OF BEGINNING; thence continuing on said North Line North 85 degrees 14 minutes 56 seconds East 416.42 feet; thence South 00 degrees 01 minutes 30 seconds East 1160.58 feet; thence South 00 degrees 15 minutes 55 seconds West 1209.78 feet; thence North 89 degrees 54 minutes 25 seconds East 145.00 feet;



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thence South 00 degrees 27 minutes 04 seconds East 199.23 feet; thence South 89 degrees 59 minutes 59 seconds West 100.00 feet; thence South 00 degrees 27 minutes 04 seconds East 116.09 feet to the South line of said Southwest Quarter; thence on said South Line South 85 degrees 54 minutes 35 seconds West 125.25 feet; thence North 00 degrees 27 minutes 04 seconds West 165.80 feet; thence North 90 degrees 00 minutes 00 seconds West 45.00 feet; thence North 00 degrees 27 minutes 04 seconds West 158.01 feet; thence North 00 degrees 15 minutes 55 seconds East 1210.25 feet; thence North 00 degrees 01 minutes 30 seconds West 1113.62 feet; thence South 90 degrees 00 minutes 00 seconds West 290.00 feet; thence North 00 degrees 01 minutes 30 seconds West 12.21 feet to the POINT OF BEGINNING.

Said easement contains 369,662.19 square feet or 8.486 acres, more or less.

SEE ATTACHED PLAT.

Reference Documents:

Subject Parcels – A 107.82 acre tract of land as described in Instrument Number 200403516 as found in the Morgan County Records Office.

Adjoining Parcels – (1) A strip of land 50 feet in width running through the above described tract, said strip of land having been heretofore deeded to the Indianapolis and Vincennes Railroad Company now known as the Indiana Southern Railroad, said strip containing 3.36 acres, more or less. No independent deed record of this railroad right-of-way could be found.

(2) The Right of Way of State Road 67 Project F-187 (11) as described in Deed Record 148, page 484 as found in the Morgan County Records Office;

Surveyor's Report

For

Rockies Express Pipeline, LLC

In accordance with Title 865 Article 1, Chapter 12, Section 1, through 29, of the Indiana Administrative Code, the following observations and opinions are submitted regarding the various uncertainties and the locations of lines and corners established on this survey as a result of:

Record Corner monuments of the U.S. Public Land System are as follows:

1. A 5/8 inch rebar with a 2 inch aluminum cap stamped "Terry Brock – Morgan County Surveyor" was found flush with the ground, per Morgan County Surveyors Records, marking the North Quarter Corner of Section 1; Township 13 North; Range 1 East.
2. A stone measuring 0.45 feet by 0.45 feet was found 0.30 feet above grade, per Morgan County Surveyor's Records, marking West Quarter Corner of said Section 1.
3. A 3/4-inch Iron Pipe found 0.30 feet below grade per Morgan County Surveyor's Records marking East Quarter Corner of said Section 1.
4. A stone with a cut "X" measuring 0.8 feet by 0.3 feet was found 1.1 feet above grade, per Morgan County Surveyor's Records, marking South Quarter Corner of said Section 1.



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5. A stone with a cut "X" measuring 0.6 feet by 0.8 feet was found 0.30 feet above grade, per Morgan County Surveyor's Records, marking Southwest Corner of said Section 1.

A) Variances in the reference monuments:

1. A 5/8 inch rebar with a 2 inch aluminum cap engraved "DR430" as set in a prior control survey by Rockies Express Pipeline, LLC and given the following UTM Zone 16N GRID coordinates; North: 14379892.50 East: 1815434.94. These coordinates were held as the origin and control (for this survey) for converting the grid to ground scale factor of 1.000394010.

B) Discrepancies, in record descriptions and plats:

According to the Original Government Survey notes the measurements of Section 1, Township 13 North, Range 1 East are as follows:

- 1). The West Line of the Southwest Quarter of said Section 1 is recorded as being 40.00 chains or 2640 feet and measured 2658.31 feet. This creates a discrepancy and an uncertainty of 18.31 feet, north/south.
- 2). The East Line of the Southwest Quarter of said Section 1 was calculated as being 40.00 chains or 2640 feet and measured 2690.84 feet. This creates a discrepancy and an uncertainty of 50.84 feet, north/south.
- 3). The South Line of the Southwest Quarter of said Section 1 is recorded as being 40.00 chains or 2640 feet and measured 2641.66 feet. This creates a discrepancy and an uncertainty of 1.66 feet, east/west.

C) Uncertainties in lines of Occupation and Possession:

None were found.

I affirm, under penalties for perjury, that I, Timothy E. Jones, have taken reasonable care to redact each Social Security number in this document, unless required by law.

Certification Date: August 4, 2008

Surveyor's Signature: _____

Timothy E. Jones RLS
Indiana Registry #LS20300006

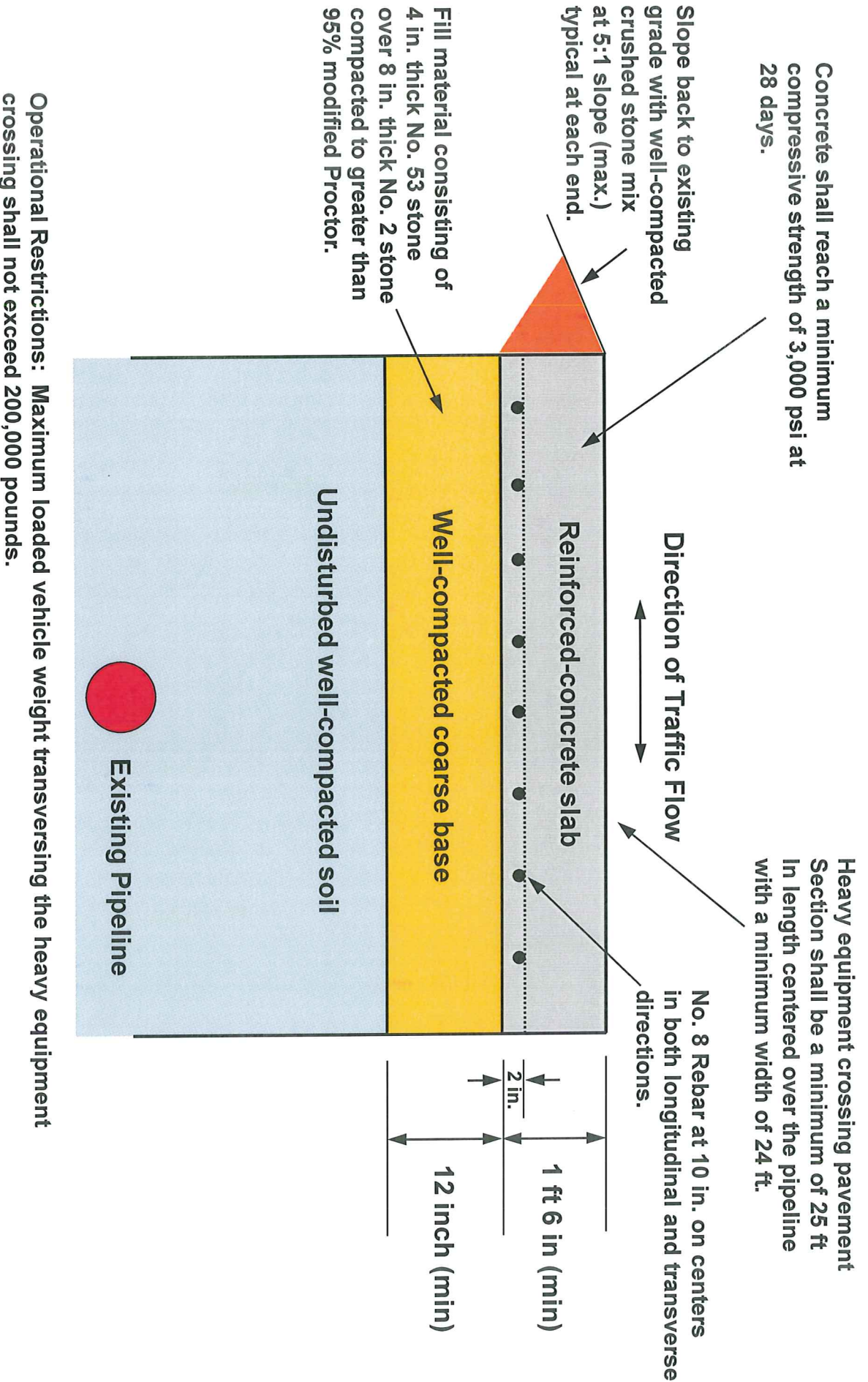


Exhibit B. Heavy Equipment Crossing Detail

Exhibit B